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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

HO, THOMAS M

ART UNIT

PAPER NUMBER

2134

DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/502,478

Applicant(s)

ATTWOOD ET AL.

Examiner

Thomas M Ho

Art Unit

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 20 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Arguments

1. Applicant has argued in response to The Examiner citing Karanjit Siyan, CNE TRAINING GUIDE: NETWare TCP/IP and NFS:

"Though the Examiner has not issued a new rejection based upon - 35 USC § 103(a) incorporating the Siyan reference, the Applicants will treat this contention as if an obviousness-type rejection has been issued strictly for the purpose of responding to this contention. Also, based upon this informal combination, the Applicants request the finality of the Final Office Action be withdrawn as to permit this new combination."

The Examiner would like to clarify to the Applicant that the "combination" was not issued as a new rejection based on 35 USC § 103(a) because it was the intention of the Examiner to use it to illustrate particular details of the TCP/IP protocol.

Applicant's additionally argues with regards to the fact that the Chuah reference is not equipped to process TCP/IP data. While Chuah's does disclose the internet as part of the structure of the network(Figure 1) and use of TCP/IP in other parts of the network (Column 9, lines 5-13), Applicant's arguments that the cellular base stations are not equipped to process TCP/IP data are noted.

Applicant's arguments, with respect to the rejection(s) of claim(s) 1-16 under Chuah have been fully considered and are persuasive. Therefore, the rejection has been withdrawn.

However, upon further consideration, a new ground(s) of rejection is made in view of Chebrolu.

Accordingly, Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, **the finality of that action is withdrawn**.

2. Claims 1-16 are pending.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Chebrolu, US patent 6754714.

5. Claim 1, 5, 9, 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Mutaf.

In reference to claim 1:

Chebrolu(Column 1, lines 15-30) discloses a method of preventing a flooding attack on a network server in which a large number of requests are received for connection to a port number on the server, comprising:

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Determining, in response to a request from a host for a connection to a port number on the server, if the number of connections to the port assigned to the host exceeds a prescribed threshold, where the host is the client and server is the ISP (Column 2, lines 20-25)

Denying the request for a connection, where a request for a connection to the server is denied when the maximum is reached. (Column 1, lines 24-30)

In reference to claim 2:

Chebrolu discloses the method of claim 1 in which denying the request further comprises:

Overriding the denial and allowing the request if a quality of service parameter pertaining to the requesting host permits the override, where the initial override or denial of the request is overridden (Column 1, lines 45-50), and the request is tended to by allocating to the new user (Column 3, line 20-37) & (Column 4, line 40 – Column 5, line 7), a connection in order to better maintain quality of service for a greater number of users. (Column 3, lines 15-19)

In reference to claim 3:

Chebrolu (Column 5, lines 30-37) discloses the method of claim 2 wherein a connection request is denied in any event if the number of available connections to the port are less than a constrained threshold, where the constrained threshold is the prescribed threshold ratio that specifies a kind of absolute maximum number of connections which can be sustained.

In reference to claim 4:

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The method of claim 1 or claim 2 or claim 3 further comprising:

Chebrolu (Column 5, lines 30-37) discloses calculating the prescribed threshold by multiplying a percentage P by the number of available connections remaining for the port, where the percentage P of the number of available connections is expressed in the mathematically equivalent form of a ratio.

In reference to claim 1:

Muta (page 6, Section 5 "Detection Method") discloses a method of preventing a flooding attack on a network server in which a large number of requests are received for connection to a port number on the server, comprising:

Determining, in response to a request from a host for a connection to a port number on the server, if the number of connections to the port assigned to the host exceeds a prescribed threshold, where the threshold is the critical value.

Denying the request for a connection, where if the threshold is reached, the computer determines a DoS attack is taking place and refuses requests.

Claims 5-8, 9-12, 13-16 are substantially similar to the method of claims 1-4 and are rejected for the same reasons.

Conclusion


6. Any inquiry concerning this communication from the examiner should be directed to Thomas M Ho whose telephone number is (703)305-8029. The examiner can normally be reached on M-F from 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory A. Morse can be reached on (703)308-4789. The fax phone numbers for the organization where this application or proceeding is assigned are (703)746-7239 for regular communications and (703)746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-5484.

TMH

September 15th, 2004


GREGORY MORSE
SUPERVISORY PATENT EXAMINER
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